IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22617 of 2004

Between:

A. Gangadhar, S/o. Tippeswamy, Hindu,
Resident of D.NO. 1-277, Bouchipalli Village, Settur Mandal, Anantapur District.

..... PETITIONER

AND

1 The Assistant Divisional Engineer, A.P.C.P.D:C.L: Operation, Kalyandurg, Anantapur District.
2 The Superintendent Engineer, Assessments, A.P.C.P.D:C.L:
A.P. State Housing Corporation Buildings, H.No. 3-6-184, 4th Floor, Urudu Hali Lane,
Himayatnagar, Hyderabad - 029.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate writ, declaring the action of the respondents in disconnecting the power supply to the petitioner's Flour Mill with S.C.No. 37 of Bochipalli Distribution at D.No.
1-277 of Anantapur District vide Lr.No. ADE/KLD/D.No.768/2004 dated 27-6-2004 of the 1st respondent as illegla, arbitrary and contrary to the law governing the field in violation of Art 14 of the constitution of India and consequently direct the respondents to restore the power supply to the petitioner's flour mill situated at D.NO. 1-277 of Bochupalli Village, Anantapur District.

Counsel for the Petitioner:MR.S.D.GOWD

Counsel for the Respondent Nos 1&2 .: MR.KANAKAMEDALA RAVINDRA KUMAR , SC for APCPDCL

The Court made the following :

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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WRIT PETITION NO. 22617 of 2004

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ORDER:

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The petitioner had established a floor mill and it is connected with electric supply. On the basis of certain acts of pilferage, said to have been noticed in the inspection conducted on 17-07-2004, the 1st respondent issued an order of provisional assessment, dated 26-07-2004. It is pointed that the pilfered energy is valued at Rs.1,25,240/-, and if the petitioner wants restoration, or continuance of supply, he shall have to deposit a sum of Rs.62,620/-. The petitioner states that the power supply was continued all through, despite such order, but was disconnected on 03-12-2004.

Learned counsel for the petitioner submits that the order of provisional assessment is in the form of a show cause notice, and till the explanation offered in reply thereto, is considered, and an order of final assessment is passed, the petitioner cannot be required to make any payments, much less supply be disconnected for non-payment of the same. He places reliance upon the judgment rendered by a Division Bench of this Court.

Learned Standing Counsel for the respondents, on the other hand, submits that though the petitioner was served with the order of provisional assessment, in the month of July, 2004, he has not paid the requisite amount till today and that the respondents were left with no alternative, except to disconnect the power supply.

The 1st respondent issued an order of provisional assessment, dated 26-07-2004. Certain allegations are made against the petitioner, and the power alleged to have

been pilfered by the petitioner, was valued at Rs.1,25,240/-. The petitioner was also issued a show cause notice dated 03-9-2004, whereunder he was required to explain as to why necessary action shall not be taken against him.

A Division Bench of this Court recently held that an order of provisional assessment, by its very nature, is tentative, and no liability as such, can be fastened upon a consumer, on the basis of the allegations contained in it. It was observed that the liability of a consumer to pay any amount would arise, only after the order of final assessment is passed.

Following the same, this writ petition is also disposed of, directing that the respondents shall restore the power supply to the petitioner, without insisting on payment of any amount, pursuant to the order of provisional assessment. The liability for the petitioner to pay any amount would arise, only after an order of final assessment is passed. The power supply shall be restored forthwith. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.07-12-2004

Note: Operative portion by

wire at party's costs.

(B/O) *KO*

To

1 The Assistant Divisional Engineer, A.P.C.P.D:C.L: Operation, Kalyandurg, Anantapur District.
2 The Superintendent Engineer, Assessments, A.P.C.P.D:C.L:
A.P. State Housing Corporation Buildings, H.No. 3-6-184, 4th Floor, Urudu Hali Lane,
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3. 2 C.D. copies.